

AMENDED IN SENATE MARCH 14, 2005

**SENATE BILL**

**No. 210**

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**Introduced by Senator Bowen**

February 10, 2005

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An act to amend Section ~~1442.5 of the Health and Safety Code, relating to county medical facilities.~~ 2881 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 210, as amended, Bowen. ~~County medical facilities: services reduction: notice~~ Telecommunications: telephone corporations: surcharge.

*The existing federal Telecommunications Act of 1996, establishes a program of cooperative federalism for the regulation of telecommunications to attain the goal of local competition, while implementing specific, predictable, and sufficient federal and state mechanisms to preserve and advance universal service, consistent with certain universal service principles. Existing federal law requires that a manufacturer of telecommunications equipment or customer premises equipment ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, as defined, if readily achievable. Existing federal law further requires that a provider of telecommunications services, as defined, ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable.*

*Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law requires the commission to design and implement programs under which telephone corporations provide access to the telecommunications system for subscribers who are deaf, hearing impaired, or disabled, including programs to provide specialized or*

*supplemental telephone communications equipment. The commission is required, until January 1, 2006, to establish a rate recovery mechanism through a surcharge, not to exceed ½% on intrastate service, to allow providers of the equipment and services to recover their costs. Existing law authorizes the commission, until January 1, 2006, to adjust the surcharge upward or downward within the specified ½% cap, to ensure that the programs supported thereby are adequately funded and that the fund balances are not excessive.*

*This bill would extend, until January 1, 2010, the authority of the commission to establish a rate recovery mechanism through a surcharge and to adjust the surcharge upward or downward within the specified ½% cap, to ensure that the programs supported thereby are adequately funded and that the fund balances are not excessive.*

~~Existing law authorizes the board of supervisors in each county to establish and maintain a county hospital and prescribe rules for the government and management thereof. Prior to closing, eliminating or reducing the level of medical services provided by, or leasing, selling, or transferring management of, a county facility, existing law requires the board to provide public notice of public hearings to be held by the board prior to its decision to proceed. Existing law requires the notice to be posted not less than 14 days prior to the public hearings.~~

~~This bill would increase the amount of time prior to the public hearings that the notice must be posted from 14 days to 30 days.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 1442.5 of the Health and Safety Code is~~
- 2     ~~amended to read:~~
- 3     ~~SECTION 1. Section 2881 of the Public Utilities Code is~~
- 4     ~~amended to read:~~
- 5     2881. (a) The commission shall design and implement a
- 6     program to provide a telecommunications device capable of
- 7     serving the needs of individuals who are deaf or hearing
- 8     impaired, together with a single party line, at no charge
- 9     additional to the basic exchange rate, to any subscriber who is
- 10    certified as an individual who is deaf or hearing impaired by a
- 11    licensed physician and surgeon, audiologist, or a qualified state
- 12    or federal agency, as determined by the commission, and to any

1 subscriber that is an organization representing individuals who  
2 are deaf or hearing impaired, as determined and specified by the  
3 commission pursuant to subdivision (e). A licensed hearing aid  
4 dispenser may certify the need of an individual to participate in  
5 the program if that individual has been previously fitted with an  
6 amplified device by the dispenser and the dispenser has the  
7 individual's hearing records on file prior to certification.

8 (b) The commission shall also design and implement a  
9 program to provide a dual-party relay system, using third-party  
10 intervention to connect individuals who are deaf or hearing  
11 impaired and offices of organizations representing individuals  
12 who are deaf or hearing impaired, as determined and specified by  
13 the commission pursuant to subdivision (e), with persons of  
14 normal hearing by way of intercommunications devices for  
15 individuals who are deaf or hearing impaired and the telephone  
16 system, making available reasonable access of all phases of  
17 public telephone service to telephone subscribers who are deaf or  
18 hearing impaired. In order to make a dual-party relay system that  
19 will meet the requirements of individuals who are deaf or hearing  
20 impaired available at a reasonable cost, the commission shall  
21 initiate an investigation, conduct public hearings to determine the  
22 most cost-effective method of providing dual-party relay service  
23 to the deaf or hearing impaired when using a telecommunications  
24 device, and solicit the advice, counsel, and physical assistance of  
25 statewide nonprofit consumer organizations of the deaf, during  
26 the development and implementation of the system. The  
27 commission shall phase in this program, on a geographical basis,  
28 over a three-year period ending on January 1, 1987. The  
29 commission shall apply for certification of this program under  
30 rules adopted by the Federal Communications Commission  
31 pursuant to Section 401 of the federal Americans with  
32 Disabilities Act of 1990 (Public Law 101-336).

33 (c) The commission shall also design and implement a  
34 program whereby specialized or supplemental telephone  
35 communications equipment may be provided to subscribers who  
36 are certified to be disabled at no charge additional to the basic  
37 exchange rate. The certification, including a statement of visual  
38 or medical need for specialized telecommunications equipment,  
39 shall be provided by a licensed optometrist or physician and  
40 surgeon, acting within the scope of practice of his or her license,

1 or by a qualified state or federal agency as determined by the  
2 commission. The commission shall, in this connection, study the  
3 feasibility of, and implement, if determined to be feasible,  
4 personal income criteria, in addition to the certification of  
5 disability, for determining a subscriber's eligibility under this  
6 subdivision.

7 (d) The commission shall establish a rate recovery mechanism  
8 through a surcharge not to exceed one-half of 1 percent  
9 uniformly applied to a subscriber's intrastate telephone service,  
10 other than one-way radio paging service and universal telephone  
11 service, both within a service area and between service areas, to  
12 allow providers of the equipment and service specified in  
13 subdivisions (a), (b), and (c), to recover costs as they are incurred  
14 under this section. The surcharge shall be in effect until January  
15 1, ~~2006~~ 2010. The commission shall require that the programs  
16 implemented under this section be identified on subscribers'  
17 bills, and shall establish a fund and require separate accounting  
18 for each of the programs implemented under this section.

19 (e) The commission shall determine and specify those  
20 statewide organizations representing the deaf or hearing impaired  
21 that shall receive a telecommunications device pursuant to  
22 subdivision (a) or a dual-party relay system pursuant to  
23 subdivision (b), or both, and in which offices the equipment shall  
24 be installed in the case of an organization having more than one  
25 office.

26 (f) The commission may direct any telephone corporation  
27 subject to its jurisdiction to comply with its determinations and  
28 specifications pursuant to this section.

29 (g) The commission shall annually review the surcharge level  
30 and the balances in the funds established pursuant to subdivision  
31 (d). Until January 1, ~~2006~~ 2010, the commission shall be  
32 authorized to make, within the limits set by subdivision (d), any  
33 necessary adjustments to the surcharge to ensure that the  
34 programs supported thereby are adequately funded and that the  
35 fund balances are not excessive. A fund balance which is  
36 projected to exceed six months' worth of projected expenses at  
37 the end of the fiscal year is excessive.

38 (h) The commission shall prepare and submit to the  
39 Legislature, on or before December 31, 1988, and annually  
40 thereafter, a report on the fiscal status of the programs

1 established and funded pursuant to this section and Sections  
2 2881.1 and 2881.2. The report shall include a statement of the  
3 surcharge level established pursuant to subdivision (d) and  
4 revenues produced by the surcharge, an accounting of program  
5 expenses, and an evaluation of options for controlling those  
6 expenses and increasing program efficiency, including, but not  
7 limited to, all of the following proposals:

8 (1) The establishment of a means test for persons to qualify for  
9 program equipment or free or reduced charges for the use of  
10 telecommunication services.

11 (2) If and to the extent not prohibited under Section 401 of the  
12 federal Americans with Disabilities Act of 1990 (Public Law  
13 101-336), the imposition of limits or other restrictions on  
14 maximum usage levels for the relay service, which shall include  
15 the development of a program to provide basic communications  
16 requirements to all relay users at discounted rates, including  
17 discounted toll-call rates, and, for usage in excess of those basic  
18 requirements, at rates which recover the full costs of service.

19 (3) More efficient means for obtaining and distributing  
20 equipment to qualified subscribers.

21 (4) The establishment of quality standards for increasing the  
22 efficiency of the relay system.

23 (i) In order to continue to meet the access needs of individuals  
24 with functional limitations of hearing, vision, movement,  
25 manipulation, speech and interpretation of information, the  
26 commission shall perform ongoing assessment of, and if  
27 appropriate, expand the scope of the program to allow for  
28 additional access capability consistent with evolving  
29 telecommunications technology.

30 (j) *The commission shall structure the programs required by*  
31 *this section so that any charge imposed to promote the goals of*  
32 *universal service reasonably equals the value of the benefits of*  
33 *universal service to contributing entities and their subscribers.*

34 ~~1442.5. (a) Prior to (1) closing, (2) eliminating or reducing~~  
35 ~~the level of medical services provided by, or (3) the leasing,~~  
36 ~~selling, or transfer of management of, a county facility, the board~~  
37 ~~shall provide public notice, including notice posted at the~~  
38 ~~entrance to all county health care facilities, of public hearings to~~  
39 ~~be held by the board prior to its decision to proceed. The notice~~  
40 ~~shall be posted not less than 30 days prior to the public hearings.~~

1 The notice shall contain a list of the proposed reductions or  
2 changes, by facility and service. The notice shall include the  
3 amount and type of each proposed change, the expected savings,  
4 and the number of persons affected.

5 (b) Notwithstanding the board's closing of, the elimination of  
6 or reduction in the level of services provided by, or the leasing,  
7 selling, or transfer of management of, a county facility  
8 subsequent to January 1, 1975, the county shall fulfill its duty to  
9 provide care to all indigent people, either directly through county  
10 facilities or indirectly through alternative means.

11 (1) Where the county duty is fulfilled by a contractual  
12 arrangement with a private facility or individual, the facility or  
13 individual shall assume the county's full obligation to provide  
14 care to those who cannot afford it, and make their services  
15 available to Medi-Cal and Medicare recipients.

16 (2) Where the county duty is fulfilled by alternative means, the  
17 facility or individual providing services shall be in compliance  
18 with Sections 441.18 and 1277.

19 (3) The board shall designate an agency to provide a 24-hour  
20 information service that can give eligible people immediate  
21 information on the available services and access to them, and an  
22 agency to receive and respond to complaints from people eligible  
23 for services under this chapter. The designated agency may be  
24 the agency that operates the facility. This subdivision applies  
25 only in instances in which there is (1) a closing of, (2) an  
26 elimination or reduction in the level of services provided by, or  
27 (3) the leasing, selling, or transfer of, a county facility.

28 (4) The board shall arrange for all facilities or individuals  
29 contracting to provide services to indigent people to be listed in  
30 the local telephone directory under county listings, and shall  
31 specify therein that the facilities or individuals fulfill the  
32 obligations of county facilities.

33 (5) Section 25371 of the Government Code does not relieve  
34 the county of the obligation to comply with this section.